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DISTRICT COURT CLERK
WESTERN DISTRICT OF KY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN

2016 JUN 15 AM 11:34

UNITED STATES OF AMERICA

INDICTMENT

v.

NO.

1:16CR-21-GNS

ANNETTE THOMAS

18 U.S.C. § 981(a)(1)(C)

18 U.S.C. § 981(a)(2)(B)

18 U.S.C. § 1341

18 U.S.C. § 1028A(a)(1)

26 U.S.C. § 7206(1)

28 U.S.C. § 2461

The Grand Jury charges:

BACKGROUND

1. At all times relevant, the defendant, **ANNETTE THOMAS**, began working for HeathCo/Zennith LLC (previously DESA US LLC) in October 1999. As of February 2012, **ANNETTE THOMAS** served as a Sales Analyst Supervisor, with administrative responsibility for budget and expense matters within the retail sales department. HeathCo produced lighting products that are sold at large retail stores. At all times relevant, DESA US LLC and HeathCo/Zennith are collectively referred to as HeathCo.

2. **ANNETTE THOMAS** used forged signatures of her supervisors, E.R., V.D., and K.S., to authorize payments to Professional Sport Publications (PSP) for unwanted and unnecessary advertisements in sports publications around the United States. **ANNETTE THOMAS** typically authorized payment to PSP in the amount of \$15,000 per advertisement. In total, she placed approximately \$2,696,400 in advertisements. **ANNETTE THOMAS** maintained yearly expenditures for the advertisements, within budgetary constraints, for the payment account to avoid financial scrutiny.

3. In return for advertisements, PSP allocated approximately 20% of the value of advertisements to be redeemed by HeathCo as non-hospitality merchandising or merchandising credits. Merchandising credits are typically used by a company for entertainment of clients and customers at sporting events and concerts. The merchandizing credits consisted of gift cards, sports tickets, concert tickets, airline tickets, and hotel and resort reservations.

4. **ANNETTE THOMAS** received merchandising credits from PSP, and an associated entertainment company, Adventure Entertainment Promotions (AEP). **ANNETTE THOMAS** concealed the receipt and use of merchandising credits belonging to HeathCo from employees and management at HeathCo, and diverted merchandising credits from HeathCo for her personal use and benefit and the benefit of others not authorized by HeathCo. The merchandising credits were allocated solely to **ANNETTE THOMAS**. She generally received \$3,000 in merchandizing credits per \$15,000 advertisement placed with PSP.

5. **ANNETTE THOMAS** placed advertisements with PSP and redeemed merchandising credits by phone and email. After **ANNETTE THOMAS** placed advertisements, PSP mailed invoices to **ANNETTE THOMAS**, using the United States Mail. **ANNETTE THOMAS** mailed checks to PSP using the United Parcel Service (UPS). PSP and AEP sent merchandising credits requested by **ANNETTE THOMAS** via Federal Express (FedEx). **ANNETTE THOMAS** also received merchandising credits through email.

6. **ANNETTE THOMAS** falsely represented to PSP and AEP that she was authorized by HeathCo to approve and purchase advertisements, and to receive and use merchandising credits. In total, **ANNETTE THOMAS** received approximately \$308,954.42 in merchandizing credits in the form of concert tickets, sports tickets, hotel reservations, airline reservations, resort

reservations, and retail gift cards. Examples of some items **ANNETTE THOMAS** requested and received as merchandizing credits are as follows:

<u>DATE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
10/17/06	\$2200	Detroit Tigers Playoff Tickets
4/16/07	\$1010	Nashville Predators Playoff Tickets
5/14/07	\$2610	Detroit Redwings Playoff Tickets
2/22/08	\$3051	Azure Condo
6/10/09	\$2670	Detroit Redwings Playoff Tickets
4/26/10	\$1249	Southwest Airlines Tickets
4/28/10	\$1200	Residence Inn Ft. Lauderdale/Pompano Beach
5/6/11	\$756	Walt Disney Port Orleans Resort—Riverside
5/9/11	\$1304	Southwest Airlines Ticket
10/25/11	\$568	Gun N Roses Concert
1/27/12	\$2272	Southern Resorts Reservations
1/30/12	\$1341	Van Halen Tickets
2/7/12	\$360	Boston Bruins Tickets

7. **ANNETTE THOMAS** fraudulently represented to PSP/AEP that HeathCo authorized her to receive the merchandising credits, and concealed her receipt and use of the credits for her own personal use and benefit and that of others.

The Grand Jury charges:

COUNTS 1-10
(Mail Fraud)

8. The allegations contained in paragraphs 1 through 7 are incorporated by reference.

9. On or about and between January 16, 2006, and February 7, 2012, in the Western District of Kentucky, Warren County, and elsewhere, the defendant, **ANNETTE THOMAS**, devised a scheme and artifice to obtain money and property belonging to her employer, HeathCo, by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud and deprive, **ANNETTE THOMAS** knowingly caused HeathCo to make payments for advertisements,

causing the issuance of merchandising credits in the form of tickets, hotel and airline reservations, and gift cards to HeathCo, that were diverted by **ANNETTE THOMAS** for her own personal benefit and the benefit of others not authorized by HeathCo.

10. In furtherance of the scheme and artifice to defraud, **ANNETTE THOMAS**, mailed and caused mailings by the United States Mail and common carriers, UPS and FedEx, among others, that are described as follows:

<u>COUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>CARRIER</u>
1	9/2/11	\$508	2 Taylor Swift Tickets	FedEx
2	10/31/11	\$550	Kohl's Gift Cards	FedEx
3	10/25/11	\$-----	Invoice from PSP World Series	U.S. Mail
4	11/28/11	\$15,000	Check 118248—World Series	UPS
5	12/8/11	\$550	Target Gift Cards	FedEx
6	12/19/11	\$15,000	Check 118678--Sugar Bowl	UPS
7	12/19/11	\$-----	Invoice from PSP 98906198	U.S. Mail
8	12/19/11	\$-----	Invoice from PSP 98906197	U.S. Mail
9	1/17/12	\$350	JC Penney Gift Cards	FedEx
10	2/1/12	\$15,000	Check 118829--Liberty Bowl	UPS

In violation of Title 18, United States Code, Section 1341.

The Grand Jury further charges:

COUNT 11
(Aggravated Identity Theft)

11. On or about December 2, 2011, in the Western District of Kentucky, Warren County, and elsewhere, the defendant, **ANNETTE THOMAS**, did knowingly transfer, possess, use, without lawful authority, a means of identification of another person, a forged signature of V.D., to issue unauthorized payment for advertisements for the World Series, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit: violations of Title 18, United States Code Sections, 1341, knowing that the means of identification belonged to

another actual person.

In violation of Title 18, United States Code, Section 1028A(a)(1).

The Grand Jury further charges:

COUNT 12
(Aggravated Identity Theft)

12. On or about January 20, 2012, in the Western District of Kentucky, Warren County, and elsewhere, the defendant, **ANNETTE THOMAS**, did knowingly transfer, possess, use, without lawful authority, a means of identification of another person, a forged signature of V.D., to issue unauthorized payment for advertisements for the Sugar Bowl, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit: violations of Title 18, United States Code Sections, 1341, knowing that the means of identification belonged to another actual person.

In violation of Title 18, United States Code, Section 1028A(a)(1).

The Grand Jury further charges:

COUNT 13
(Aggravated Identity Theft)

13. On or about February 3, 2012, in the Western District of Kentucky, Warren County, and elsewhere, the defendant, **ANNETTE THOMAS**, did knowingly transfer, possess, use, without lawful authority, a means of identification of another person, a forged signature of V.D., to issue unauthorized payment for advertisements for the Liberty Bowl, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit: violations of

Title 18, United States Code Sections, 1341, knowing that the means of identification belonged to another actual person.

In violation of Title 18, United States Code, Section 1028A(a)(1).

The Grand Jury further charges:

COUNT 14
(False Tax Return)

14. On or about April 15, 2011, in the Western District of Kentucky, Warren County, Kentucky, the defendant, **ANNETTE THOMAS**, did willfully make and subscribe a U.S. Individual Tax Return, for the calendar year 2010, which was verified by a written declaration that it was made under the penalty of perjury, and was filed with the Internal Revenue Service, and included information she did not believe to be true and correct as to every material matter. Specifically, the return falsely claimed head of household filing status and failed to report approximately \$30,578 in other income on Form 1040, Line 21, whereas, as she then and there well knew and believed, such income should have been properly included in the Form 1040 for 2010.

In violation of Title 26, United States Code, Section 7206(1).

The Grand Jury further charges:

COUNT 15
(False Tax Return)

15. On or about April 15, 2012, in the Western District of Kentucky, Warren County, Kentucky, the defendant, **ANNETTE THOMAS**, did willfully make and subscribe a U.S. Individual Tax Return, for the calendar year 2011, which was verified by a written declaration that

it was made under the penalty of perjury and was filed with the Internal Revenue Service, and included information she did not believe to be true and correct as to every material matter. Specifically, the return falsely claimed head of household filing status and failed to report approximately \$39,665 of other income on Form 1040, Line 21, whereas, as she then and there well knew and believed, such income should have been properly included in the Form 1040 for 2011.

In violation of Title 26, United States Code, Section 7206(1).

NOTICE OF FORFEITURE

16. As a result of committing offenses in violation of Title 18, United States Code, Sections 1341 and 1028(A)(a)(1), and Title 26, United States Code, Section 7206(1), as alleged in Counts 1 through 15 of this Indictment, felonies punishable by imprisonment for more than one year, the defendant, **ANNETTE THOMAS**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and (2)(B), and Title 28, United States Code, Section 2461, any and all property constituting, or derived from, proceeds defendant obtained, directly or indirectly, as a result of the offenses, and any and all of defendant's property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of the violations alleged in Counts 1 through 15 of this Indictment.

Pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and (2)(B), and Title 28,
United States Code, Section 2461.

A TRUE BILL.

REDACTED



JOHN E. KUHN, JR.
UNITED STATES ATTORNEY

JEK:JDJ

UNITED STATES OF AMERICA v. ANNETTE THOMAS

PENALTIES

Counts 1-10: NM 20 yrs./\$250,000/both/NM 3 yrs. Supervised Release (each count)
Counts 11-13: 2 yrs. consecutive/\$250,000/NM 3 yrs. Supervised Release (each count)
Counts 14-15: NM 3 yrs./\$250,000/both/NM 1 yr. Supervised Release (each count)
Forfeiture

NOTICE

ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.

SPECIAL ASSESSMENTS

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor: \$ 25 per count/individual
\$125 per count/other

Felony: \$100 per count/individual
\$400 per count/other

FINES

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

Failure to pay fine as ordered may subject you to the following:

1. **INTEREST** and **PENALTIES** as applicable by law according to last date of offense.

For offenses occurring after December 12, 1987:

No **INTEREST** will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

PENALTIES of:

10% of fine balance if payment more than 30 days late.

15% of fine balance if payment more than 90 days late.

2. Recordation of a **LIEN** shall have the same force and effect as a tax lien.
3. Continuous **GARNISHMENT** may apply until your fine is paid.

18 U.S.C. §§ 3612, 3613

If you **WILLFULLY** refuse to pay your fine, you shall be subject to an **ADDITIONAL FINE** of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or **IMPRISONMENT** for not more than 1 year or both. 18 U.S.C. § 3615

RESTITUTION

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

APPEAL

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or
2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

PAYMENTS

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE:

Clerk, U.S. District Court
106 Gene Snyder U.S. Courthouse
601 West Broadway
Louisville, KY 40202
502/625-3500

BOWLING GREEN:

Clerk, U.S. District Court
120 Federal Building
241 East Main Street
Bowling Green, KY 42101
502/781-1110

OWENSBORO:

Clerk, U.S. District Court
210 Federal Building
423 Frederica
Owensboro, KY 42301
502/683-0221

PADUCAH:

Clerk, U.S. District Court
127 Federal Building
501 Broadway
Paducah, KY 42001
502/443-1337

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.

FORM DBD-34
JUN.85

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UNITED STATES DISTRICT COURT

Western District of Kentucky

Bowling Green Division

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THE UNITED STATES OF AMERICA

vs.

ANNETTE THOMAS

INDICTMENT

Title 18 U.S.C. § 1341;

Title 18 U.S.C. § 1028A(a)(1);

Title 26 U.S.C. § 7206(1);

Mail Fraud;

Aggravated Identity Theft;

False Tax Return.

A true bill.

REDACTED

Filed in open court this 15th day of June, 2016.

Clerk

Bail, \$